

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DERRICK PAGE,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 4:04CV1353 HEA
	)	
KAY GREENWELL, et al.,	)	
	)	
Defendants	)	

**OPINION, MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff's Motion to Vacate Summary Judgment, [Doc. # 79]; plaintiff's Motion for Leave to Submit Request for Written Interrogatories; [Doc. # 83], plaintiff's Motion to Vacate Summary Judgment, [Doc. # 84]; plaintiff's Motion for Leave to Submit Request for Written Interrogatories, [Doc. # 87]; plaintiff's Motion to Appoint Counsel, [Doc. # 91]; and plaintiff's Motion for Default Judgment as to Party Dave Tanner, [Doc. # 93].

On September 2, 2005, this Court entered its Opinion, Memorandum and Order granting summary judgment in favor of defendants Rottnek, Greenwell and Rafferty. Plaintiff now seeks to have the Court vacate this Opinion. In support of the Motions, plaintiff states that he never received the Motion filed on behalf of defendant Rottnek. As to defendants Greenwell and Rafferty, plaintiff seeks to have the Opinion vacated because he did not receive discovery from defendants.

As to defendant Rottnek, defendant has responded to the Motion to Vacate and has advised the Court that counsel sent copies of the Motion to both addresses listed for plaintiff, *i.e.*, his home and the St Louis County Justice Center. Defendant properly served plaintiff in accordance with the Federal Rules of Civil Procedure. Nothing more can be expected from defendant. Furthermore, the Court's Order discusses the issues as they relate to defendant Rottnek and how the record establishes that defendant Rottnek is entitled to summary judgment based on the record before the Court. Plaintiff's Motion to Vacate the Opinion as to defendant Rottnek is therefore, denied.

As to defendants Greenwell and Rafferty, plaintiff's grounds for vacating the Opinion are not well taken. Plaintiff did not file any motions with the Court seeking a Court Order compelling the discovery he now claims he needed prior to the entry of the Opinion. Plaintiff did file an opposition to this Motion for Summary Judgment, and the Court considered it along with the entire record. Based on the record, the Court found that no genuine issues of material fact existed with respect to plaintiff's claims. There is nothing now before the Court to establish that this conclusion was not supported by the record. Plaintiff's Motion to Vacate as to defendants Greenwell and Rafferty is denied. Likewise, plaintiff's Motions for Leave to Submit Requests for Written Interrogatories are denied as moot.

Plaintiff once again asks for appointed counsel. As this Court has stated on a separate occasion in this matter, appointed counsel is not a matter of right in a civil case. Based on the complexity of this case, the Court has denied plaintiff's previous request for counsel. There is nothing before the Court which establishes that that the Court's prior decision denying counsel should be revised. Plaintiff's Motion for Appointment of Counsel is denied.

Finally, plaintiff moves the Court for an entry of Default Judgment as to defendant Dave Tanner. A review of the docket sheet in this matter establishes that the attempted service of defendant Tanner was unsuccessful and that there has not yet been proper service on this defendant. As such, plaintiff's Motion is premature and will therefore be denied.

Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's Motion to Vacate Summary Judgment, [Doc. # 79], is denied.

**IT IS FURTHER ORDERED** that plaintiff's Motion for Leave to Submit Request for Written Interrogatories; [Doc. # 83], is denied.

**IT IS FURTHER ORDERED** that plaintiff's Motion to Vacate Summary Judgment, [Doc. # 84], is denied.

**IT IS FURTHER ORDERED** that plaintiff's Motion for Leave to Submit

Request for Written Interrogatories, [Doc. # 87], is denied.

**IT IS FURTHER ORDERED** that plaintiff's Motion to Appoint Counsel, [Doc. # 91], is denied.

**IT IS FURTHER ORDERED** that plaintiff's Motion for Default Judgment as to Party Dave Tanner, [Doc. # 93], is denied.

Dated this 19th day of January, 2006.

A handwritten signature in cursive script, reading "Henry Edward Autrey", written in black ink.

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HENRY EDWARD AUTREY  
UNITED STATES DISTRICT JUDGE